

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

GARY DEAN BOONE,)
Petitioner,)
vs.) 2:10-cv-145-JMS-DML
WARDEN, FCI Allenwood,)
Respondent.)

Entry Granting Motion to Transfer

Gary Boone is serving a life sentence imposed on August 13, 1998, by the United States District Court for the District of South Carolina. Although formerly within this District, and thereafter in the Eastern District of Pennsylvania, Boone and his custodian are located in the Western District of Virginia. Boone is currently confined at the federal prison in Jonesville, Virginia.

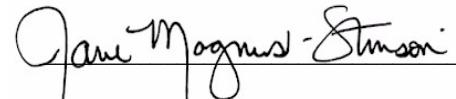
"[T]here is generally only one proper respondent to a given prisoner's habeas petition." *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004). That one proper respondent "is the person with the ability to produce the prisoner's body before the habeas court." *Id.* at 435. The court lacks personal jurisdiction over Boone's present custodian, who is not the respondent. Boone's former Pennsylvania custodian has appeared in the action and seeks to have the action either dismissed or transferred. There is no respondent with custody of the petitioner in this District and the action should not proceed here. See *Blumeyer v. Hollingsworth*, 2010 WL 1488522 (S.D.Ill. April 12, 2010) (court transferred 2241 petition when no appropriate respondent remained in the district after petitioner's transfer) (unpublished); *Mitchell v. Bledsoe*, 2009 WL 3156689 (S.D.Ill. Sept. 28, 2009)(same) (unpublished).

Rather than dismiss the action, the court shall exercise its authority to transfer it to the proper federal judicial district. See 28 U.S.C. §§ 1404(a), 1406. For the reasons explained above, therefore, the motion to dismiss or in the alternative, motion to transfer [28] is **granted** insofar as the respondent seeks the **transfer** of this action to the District where the petitioner is currently confined.

The action is **transferred to the United States District Court for the Western District of Virginia at Roanoke, Virginia**. In light of the court's ruling on the motion to dismiss/transfer, the court will not rule on the petitioner's motion to amend petition (dkt 31) or his motion to supplement record (dkt 33).

IT IS SO ORDERED.

Date: 05/02/2011


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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